



# RESTRICTION ELECTION FACSIMILE TRANSMISSION

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DATE: October 5, 1998

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TO EXAMINER: JAMES L. GRUN, Ph.D.

ART UNIT: 1641

SERIAL NUMBER: 08/981,665

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Stan Cipkowski

Group Art Unit 1641

Serial No. 08/981,665

Examiner J. Grun

Filed: November 5, 1997

VIA  
TELEFAX

For: DEVICE FOR THE COLLECTION, TESTING, AND  
SHIPMENT OF BODY FLUID SAMPLES

AMENDMENT

Box Non-Fee Amendment  
Assistant Commissioner for Patents and Trademarks  
Washington, D.C. 20231

SIR:

In response to the Examiner's letter of September 28, 1998 (Paper No. 3), applicant hereby elects to prosecute invention II to which claims 5-15 are drawn.

Applicant expressly traverses the requirement for restriction because all of the claims in the case are drawn to a single inventive concept, namely, a drug abuse test kit consisting of a particular structured cup-like container to be used in conjunction with a particularly structured drug test card. While the Examiner has classified the claims as setting forth two inventions not linked in technical relationship with each other, nevertheless, a single drug test kit is disclosed

with certain elements of this kit being claimed separately. While it is conceivable that the several so-called inventions could be used separately or in conjunction with other like structures, nevertheless, considerable modification would be necessary in order to adapt these inventions to uses with other structures such as a cup-like container or a test card.

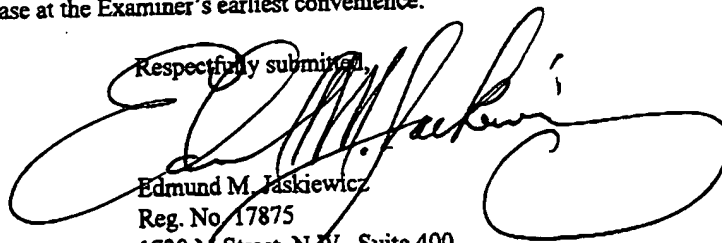
The drug test kit was conceived as a single device consisting primarily of a container cup and a drug test card. Each of these components has been further modified based on test results but the concept of a single test kit remains.

While invention II might conceivably be used by itself, it is highly unlikely that this invention could be used "with any other container". Such a container would have to have a structure very similar if not identical to the structure of the container as disclosed.

Further, the mere fact that the structures recited in the claims and categorized as different inventions are classified in different classes should not constitute a basis for requiring restriction.

Since applicant has now complied with the Examiner's requirement for restriction and this requirement has been traversed, it is now respectfully requested that an action be made on the merits of the claims in the case at the Examiner's earliest convenience.

Respectfully submitted,

  
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